

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BOARD OF TRUSTEES OF THE
PLUMBERS AND PIPEFITTERS UNION
LOCAL 525 HEALTH AND WELFARE
TRUST AND PLAN, et al.,

Plaintiffs,

v.

SECURITY PLUMBING & AIR
CONDITIONING, et al.,

Defendant.

Case No. 2:14-cv-01027-APG-PAL

ORDER

(Mot Compel Disc – ECF No. 63)

The court conducted a hearing on July 21, 2016, on Trustees of the Plumbers and Pipefitters National Pension Fund and International Training Funds' Motion to Compel Discovery and for Sanctions Against Defendant Francisco Gonzalez-Farias and Gabriella Navarro (ECF No. 63). Christopher Humes and Darrel Martin appeared on behalf of Plaintiffs. Defense counsel did not appear at the hearing. The court has considered the motion and Plaintiffs Boards of Trustees of the Plumbers and Pipefitters Union Local 525 Health and Welfare Trust and Plan, the Plumbers and Pipefitters Union Local 525 Pension Plan, and the Plumbers and Pipefitters Local Union 525 Apprentice and Journeyman Training Trust for Southern Nevada's Limited Joinder (ECF No. 69). Defendants Gonzalez-Farias and Navarro did not file a response to the motion or appear for the hearing.

The Defendants were served with written discovery requests on January 26, 2016 through their attorney. Responses were due 30 days later. The motion to compel was filed because no responses have been received to date, and all efforts to communicate with these defendants have been unsuccessful. Letters and phone messages have been left to attempt to resolve this dispute without court intervention to no avail. Deposition notices were also served and both of the individuals failed to appear on the date and time noticed for their depositions. None of the

1 correspondence sent to the defendants at their last known address has been returned. Movants
2 therefore seek an order compelling the defendants to answer interrogatories, and respond to
3 requests for production of documents and requests for admissions.

4 On February 26, 2016 the court granted attorney Tony May's motion to withdraw as
5 counsel for these individual defendants and corporate defendants Security Plumbing & Air
6 conditioning and Mountain Lion Plumbing, Inc. The motion represented that there had been a
7 complete breakdown in the attorney client relationship and that the clients had not answered
8 emails, returned phone calls or responded in any way to the firm's attempts to contact them,
9 which included a home visit. Their failure to communicate with counsel made it impossible for
10 counsel to finalize responses to outstanding discovery, set dates for depositions or comply with
11 upcoming scheduling deadlines.

12 Rule 37(a) of the Federal Rules of Civil Procedure authorizes the court to enter an order
13 compelling responses to discovery requests after notice to the affected parties, and a certification
14 that the moving party has made a good faith attempt to obtain the discovery without court action.
15 The court finds the Trustees served the defendants with written discovery requests on January
16 25, 2016 which have not been responded to through the hearing. The Trustees made reasonable
17 efforts to communicate with the defendants in a good faith attempt to resolve their failure to
18 comply with their discovery obligations without court intervention. Defendants were also served
19 with this motion to compel and have not responded, or requested an extension to respond.
20 Defendants were also served with notice of the hearing on the motion and did not appear. The
21 court will therefore grant the motion to compel.

22 The Defendants previously failed to cooperate and communicate with their counsel who
23 was endeavoring to respond to the discovery at issue in this motion. The Defendants' failure to
24 communicate with the court and opposing counsel, failure to comply with their discovery
25 obligations, failure to respond to this motion and failure to appear at the hearing constitutes
26 abusive litigation tactics which interfere with the court's management of its docket, and has
27 delayed resolution of this case on the merits. Defendants are warned that failure to timely
28 comply with this order to compel responses to long overdue discovery may result in sanctions up


1 to and including case ending sanctions such as default judgement being entered against them.

2 Having reviewed and considered the matter, and for good cause shown,

3 **IT IS ORDERED;**

- 4 **1.** Trustees of the Plumbers and Pipefitters National Pension Fund and International
5 Training Funds' Motion to Compel Discovery and for Sanctions against Defendant
6 Francisco Gonzalez-Farias and Gabriella Navarro (ECF No. 63) is **GRANTED**.
7 Gonzalez-Farias and Navarro shall have until **August 11, 2016** to provide full and
8 complete responses to interrogatories and requests for production of documents
9 served January 26, 2016.
- 10 **2.** Pursuant to Fed. R. Civ. P. 36(a)(3) the requests for admissions served January 25,
11 2016 are admitted by operation of law because the defendants failed to timely object
12 or respond.
- 13 **3.** Failure to timely comply with this order to provide full and complete answers to
14 interrogatories and responses to requests for production may result in sanctions up to
15 and including a recommendation to the district judge of case ending sanctions such as
16 default judgment.

17 DATED this 21st day of July, 2016.

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19 PEGGY A. LEEN
20 UNITED STATES MAGISTRATE JUDGE
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